

Legal and criminalistic aspects of DNA profiling – Summary

The Thesis deals with DNA profiling, one of the most accurate methods used in recent criminal science to identify individuals. It also deals with the legal aspects of DNA profiling because it raises many important legal questions. The Thesis consists of two parts.

The first part is about DNA profiling itself. The history of DNA profiling worldwide and in the Czech Republic is mentioned. The first cases solved with its contribution are described. A very important feature of DNA profiling is that it can be used not only for conviction of offenders but also for acquittal of innocent individuals. Biological principles of DNA profiling are explained as well as possibilities of its utilization in criminal science, criminal and civil proceedings. The fact that monozygotic twins have identical DNA is mentioned as well as some very extraordinary occurrences such as hermaphrodites or another kind of individuals, who have two different DNA. These anomalies can cause problems with interpretation of the results.

DNA databases can be used for comparison of many DNA profiles without the necessity to repeat sample analysis. This fact caused the expansion of DNA profiling. A special software required for DNA databases is also shortly described.

The second part is most important. It deals with the legal questions. DNA profiling can have really great impact on human rights and freedoms. DNA databases can affect privacy rights guaranteed by Article 8 of the European Convention on Human Rights. This is the reason why DNA profiling is subject to continuous judicial supervision.

Some decisions of the European Court of Human Rights are mentioned. It is not only the well known case of *S. and Marper versus United Kingdom* but also a very important decision in the case of *Van der Velden versus the Netherlands*. In this case the Court approved the collecting of samples of convicted although the DNA profiling didn't play any role in their case.

The comparative analysis of legal systems of Austria, Germany and the Slovak Republic from the point of view of DNA profiling is carried out, which is followed by the aforementioned analysis of Czech legislation.

I find that Czech legislation doesn't differ significantly from other countries. The main issue is the lack of exactly defined legal rules for DNA database, especially if it regards the terms and conditions of removal of the profiles. There is also a real need of adopting new regulation of connoisseurship. Some minor changes could be adopted also in procedural law.

Some legislative proposals are included at the end of the thesis. The regulation of terms for storage of DNA profiles in the databases could be inspired by the regulation of lapse of time (in Criminal Code). DNA profiles of offenders of serious felonies should be stored in the database for longer period of time than the profiles of misdemeanor offenders. From my analysis it results that current law amendment is better applicable than the adoption of a special DNA law.

Keywords

DNA profiling, evidence, right to privacy